

Application No. 10/797,400
Amendment dated February 28, 2006
Reply to Office Action of September 29, 2005

REMARKS/ARGUMENTS

Responsive to the Official Action mailed September 29, 2005, applicants have amended the claims of their application in an earnest effort to place this case in condition for allowance. Specifically, claim 5 has been cancelled, independent claims 1 and 8 have been amended, and claim 7 revised in response to the Examiner's rejection. Additionally, new product claims 11-14 have been added. Reconsideration is respectfully requested.

By this response, applicants hereby affirm their election to prosecute claims directed to Species A, a process of making a nonwoven laminated fabric comprising three filamentary web layers. Claims 1-4 and 6-8 are directed to this elected Species. By this response, applicants have added new claims 11-14 which are directed to a product formed in accordance with the elected process claims. Entry is respectfully requested. Applicants respectfully reserve the right to file one or more divisional applications directed to their non-elected claims.

It is believed that the Examiner's rejection under 35 U.S.C. §112 can be withdrawn in view of the amendments to claim 7.

In rejecting the pending claims under 35 U.S.C. § 103, the Examiner has relied upon U.S. Patent No. 4,784,892, to Storey et al., in view of U.S. Patent No. 5,766,737, to Willey et al., U.S. Patent No. 4,082,878, to Boe et al., U.S. Patent No. 5,288,544, to Mallen et al., and U.S. Patent No. 5,951,535, to Fujiwara et al., and further in view of U.S. Patent No. 4,041,203, to Brock et al., and U.S. Patent Publication No. 2002/0148547, to Abed et al.

However, it is respectfully submitted that applicants' novel process, and resultant nonwoven fabric construct, are neither taught nor suggested by the cited prior art references, even when combined, and accordingly, the Examiner's rejections are respectfully traversed.

As discussed in their specification, applicants' novel nonwoven fabric manufacturing process, and resultant nonwoven construct, contemplates the formation of continuous filament precursor webs from *dissimilar polymers* with a third precursor web positioned between the first and second webs to facilitate subsequent consolidation of the three webs. Notably, none of the prior art cited by the Examiner teaches or contemplates a nonwoven fabric construct, formed from three filamentary webs, in accordance with the presently pending claims.

It is respectfully submitted that the principal Storey et al. reference in no way teaches or suggests applicants' novel invention. First, as acknowledged by the Examiner, "Storey et al. does not teach forming continuous filaments". Clearly, this is a fundamental shortcoming in the primary Storey et al. reference, since those skilled in the art readily differentiate between, and recognize the differing properties of, continuous filament (spunbond) webs, in accordance with the present invention, as opposed to the meltblown fibrous webs to which the teachings of Storey et al. are limited.

In this regard, the thrust of Storey et al. is the formation of a laminate from such meltblown material, with the inclusion of a so-called "coform" layer including pulp and superabsorbent particles. There are *no teachings* in Storey et al. of forming a nonwoven fabric laminate from *continuous filament layers*, wherein the layers are formed from dissimilar polymers.

As those skilled in the art will recognize, the conventional thinking has been that continuous filament webs from dissimilar polymers, such as formed from polyethylene and polypropylene, cannot normally be consolidated in a fashion to facilitate their subsequent use. The present inventors have addressed this problem in a unique fashion by providing a third,

intermediate continuous filament layer which desirably acts to facilitate consolidation of the continuous filament laminate construct. Storey et al. simply does not contemplate or address this specific product construct, nor the consolidation issues typically associated with formation of such a construct with continuous filament webs formed from dissimilar polymers.

In the Action the Examiner relies upon the Willey et al. reference for its teachings relating to the formation of continuously laminated fibrous webs. However, Willey et al., like the cited Brock et al. patent, is specifically limited in its teachings to the use of a *meltblown fibrous layer* interposed between associated spunbond filament webs. Such prior art specifically teaches away from applicants' novel invention, by which applicants' provide a unique nonwoven fabric construct comprised of continuous filament webs, without resort to an intermediate meltblown fibrous web, as contemplated by Willey et al.

In the Action, the Examiner states: "It is common practice in the art to interchangeably use staple fibers and (filaments or long fibers) in forming absorbent articles", referencing the Boe et al. patent. Again, applicants must respectfully maintain that this reference simply does not teach or suggest the formation of a laminated nonwoven fabric construct from continuous filament webs, formed from dissimilar polymers, as claimed.

Applicants must respectfully refer to M.P.E.P. Section 2143.01, which specifically admonishes that "the prior art must suggest the desirability of the claimed invention", and that "the proposed modification cannot render the prior art unsatisfactory for its intended purpose". With these requirements of the M.P.E.P. in mind, it is respectfully noted that those skilled in the art *would not* be motivated to combine the diverse teachings of Boe et al. and Willey et al. with the Storey et al. reference, to arrive at the present invention. Storey et al. addresses formation

of a specific type of *meltblown fiber composite web*. Clearly, there is *no motivation* in the references to modify this specifically configured composite web of Storey et al.

In the Action, the Examiner further relies upon the Mallen et al. reference but again, this reference clearly fails to overcome the deficiencies in the teachings of the other cited prior art in suggesting the present invention. It is not seen how the teachings of this reference, which contemplates a construct formed for its synthetic fiber, and an anti-statically effective amount of conductive fiber, in any way teaches or suggests a modification of the principal Storey et al. reference, which is limited to *meltblown fibrous webs*, to arrive at the present invention.

The Examiner cites Fujiwara et al. for its generalized teaching in the "Background" portion of this reference, but the reference itself is directed to a nonwoven fabric comprising at least two layers of long fiber nonwoven fabric and a short fiber nonwoven fabric joined together (column 35, lines 61-64). Again, this reference clearly does not teach or suggest any modification of the principal Storey et al. reference, formed from meltblown fibrous webs, to arrive at the present invention, wherein three continuous filament polymeric webs are provided and dissimilar polymers are employed.

In rejecting claims 6 and 7, the Examiner further relies upon the Brock et al. and Abed et al. references. However, neither of these references overcome the clear deficiencies in the teachings of the prior art discussed above. As noted, Brock et al. teaches a typical "SMS" construct, that is, spunbond-meltblown-spunbond, a typical composite construct as is well-known in the art. This patent does not teach or suggest the formation of a construct from plural continuous filament layers, with the use of dissimilar polymers, as claimed. The Abed et al. reference is similarly deficient in teaching or suggesting the present invention, with this

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reference contemplating the provision of a fibrous web formed from bi-component or bi-constituent fibers.

Applicants further respectfully refer to M.P.E.P. Section 2143.03, which specifically requires that "all claim limitations must be taught or suggested by the prior art". Significantly, notwithstanding the number of cited prior art references relied upon in the rejections under 35 U.S.C. §103, not a single one of the references teaches or suggests the formation of a fabric in accordance with the present invention, comprising plural continuous filament precursor webs formed from dissimilar polymers.

In view of the foregoing, formal allowance of claims 1-8 and 11-15 is believed to be in order and is respectfully solicited. Should the Examiner wish to speak with applicants' attorneys, they may be reached at the number indicated below.

The Commissioner is hereby authorized to charge any additional fees which may be required in connection with this submission to Deposit Account No. 23-0785.

Respectfully submitted,

By



Stephen D. Geimer, Reg. No. 28,846

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 West Madison Street, Suite 3800
Chicago, Illinois 60661-2511
312/876-1800

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I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage at First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on **February 28, 2006**.

A handwritten signature in black ink, appearing to read "John D. H." or a similar variation, is placed over a horizontal line.